

Part 5

Small Business Equal Access to Justice Act

78B-8-501 Title.

This part is known as the "Small Business Equal Access to Justice Act."

Renumbered and Amended by Chapter 3, 2008 General Session

78B-8-502 Legislative findings -- Purpose.

The Legislature finds that small businesses may be deterred from seeking review of or defending against substantially unjustified governmental action because of the expense involved in securing the vindication of their rights. The purpose of this part is to entitle small businesses, under conditions set forth in this act, to recover reasonable litigation expenses.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-8-503 Definitions.

As used in this part:

- (1) "Prevail" means to obtain favorable final judgment, the right to all appeals having been exhausted, on the merits, on substantially all counts or charges in the action and with respect to the most significant issue or set of issues presented, but does not include the settlement of any action, either by stipulation, consent decree or otherwise, whether or not settlement occurs before or after any hearing or trial.
- (2) "Reasonable litigation expenses" means court costs, administrative hearing costs, attorney fees, and witness fees of all necessary witnesses, not in excess of \$25,000 which a court finds were reasonably incurred in opposing action covered under this part.
- (3) "Small business" means a commercial or business entity, including a sole proprietorship, which does not have more than 250 employees, but does not include an entity which is a subsidiary or affiliate of another entity which is not a small business.
- (4) "State" means any department, board, institution, hospital, college, or university of the state of Utah or any political subdivision thereof, except with respect to actions brought under Title 76, Chapter 16, Part 5, Antitrust Offenses.

Amended by Chapter 173, 2025 General Session

78B-8-504 Litigation expense award authorized in actions by state.

In any civil judicial action commenced by the state, which involves the business regulatory functions of the state, a court may award reasonable litigation expenses to any small business which is a named party in the action if the small business prevails and the court finds that the state action was undertaken without substantial justification.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-8-505 Litigation expense award authorized in appeals from administrative decisions.

- (1) In any civil judicial appeal taken from an administrative decision regarding a matter in which the administrative action was commenced by the state, and which involves the business regulatory functions of the state, a court may award reasonable litigation expenses to any small business

which is a named party if the small business prevails in the appeal and the court finds that the state action was undertaken without substantial justification.

- (2) Any state agency or political subdivision may require by rule or ordinance that a small business exhaust administrative remedies prior to making a claim under this part.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-8-506 Payment of expenses awarded -- Statement required in agency's budget.

Expenses awarded under this part shall be paid from funds in the regular operating budget of the state entity. If sufficient funds are not available in the budget of the entity, the expenses shall be considered a claim governed by the provisions of Title 63G, Chapter 9, Board of Examiners Act. Every state entity against which litigation expenses have been awarded under this part shall, at the time of submission of its proposed budget, submit a report to the governmental body which appropriates its funds in which the amount of expenses awarded and paid under this act during the fiscal year is stated.

Renumbered and Amended by Chapter 3, 2008 General Session